



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

**HB5794**

by Rep. Christine Winger

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/26-4.7 new

Amends the Criminal Code of 2012. Creates the offense of illegal electronic monitoring. Provides that a person commits the offense when he or she knowingly installs, conceals, or otherwise places an electronic tracking software or spyware on an electronic communication device without the consent of all owners of the device for the purpose of monitoring or following the user or users of the software. Provides that a first violation is a Class 4 felony and a second or subsequent conviction is a Class 3 felony. Provides exceptions.

LRB099 18666 RLC 43048 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by adding  
5 Section 26-4.7 as follows:

6 (720 ILCS 5/26-4.7 new)

7 Sec. 26-4.7. Illegal electronic monitoring.

8 (a) As used in this Section:

9 "Electronic communication device" means an electronic  
10 device, including, but not limited to, a wireless  
11 telephone, personal digital assistant, or a portable or  
12 mobile computer, that is capable of transmitting images or  
13 pictures.

14 "Electronic tracking software or spyware" means a  
15 computer program that tracks computer activity and is  
16 capable of recording and transmitting the information to  
17 third parties.

18 "Person" does not include the manufacturer of the  
19 electronic software or spyware.

20 (b) Except as provided in subsection (c), a person commits  
21 illegal electronic monitoring when he or she knowingly  
22 installs, conceals, or otherwise places an electronic tracking  
23 software or spyware on an electronic communication device

1 without the consent of all owners of the device for the purpose  
2 of monitoring or following the user or users of the software.

3 (c) It is not a violation of this Section:

4 (1) if the installing, concealing, or placing of  
5 electronic tracking software or spyware on an electronic  
6 communication device is by, or at the direction of, a peace  
7 officer in furtherance of a criminal investigation and is  
8 carried out in accordance with applicable State and federal  
9 law;

10 (2) if the installing, concealing, or placing of  
11 electronic tracking software or spyware on an electronic  
12 communication device is by, or at the direction of, a  
13 parent or legal guardian who owns the device, and if the  
14 device is used solely for the purpose of monitoring the  
15 minor child of the parent or legal guardian when the child  
16 is the user of the device; or

17 (3) if the electronic tracking software or spyware was  
18 installed by the manufacturer of the electronic  
19 communication device.

20 (d) Sentence. Illegal electronic monitoring is a Class 4  
21 felony. A second or subsequent conviction of illegal electronic  
22 monitoring is a Class 3 felony.